

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case No. 3:23-cv-01092

Chief Judge Waverly D. Crenshaw, Jr.
Magistrate Judge Alistair Newbern

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF CHAMBER OF
PROGRESS AND NETCHOICE, LLC FOR LEAVE TO FILE BRIEF
AS *AMICI CURIAE* IN OPPOSITION TO PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 7 and LR 7.01, Chamber of Progress and NetChoice, LLC (“*amici*”) respectfully move the Court for leave to file their brief as *amici curiae* (Exhibit A to *amici*’s Motion) in opposition to Plaintiffs’ Motion for Preliminary Injunction (ECF No. 40). Counsel for *amici* conferred with counsel for the parties regarding this motion. Defendant consents to the filing of the proposed amicus brief. Plaintiffs oppose the requested relief because they do not believe that amicus briefs are necessary at this stage.

INTRODUCTION AND INTERESTS OF AMICI CURIAE

Chamber of Progress is a tech-industry coalition devoted to a progressive society, economy, workforce, and consumer climate. Chamber of Progress backs public policies that will build a fairer, more inclusive country in which the tech industry operates responsibly and fairly, and in which all people benefit from technological leaps. Chamber of Progress seeks to protect Internet freedom and free speech, to promote innovation and economic growth, and to empower technology customers and users. Many of Chamber of Progress’ partners currently use, develop, and provide generative AI products and services.

NetChoice, LLC (“NetChoice”) is a national trade association of online businesses that works to protect free expression and promote free enterprise online. NetChoice’s members rank among the world’s most innovative companies, including Meta, Amazon, Etsy, Google, Pinterest, Nextdoor, Snap, TikTok, and X (formerly known as Twitter). NetChoice advocates for free speech and a competitive online ecosystem by challenging laws that subject online businesses to disfavored treatment, and by filing *amicus curiae* briefs in cases that, like this one, could shape the way businesses operate and innovate on the internet. Many of NetChoice’s members currently use, develop, and provide generative AI products and services.

Amici represent a broad set of stakeholders and offer distinct and useful perspectives on litigation involving technology. They regularly file amicus briefs, submit public comments, and publish reports and articles on issues involving artificial intelligence and copyright. *E.g.*, Carl Szabo, *AI Innovation Is Headed Toward A Litigation Iceberg* (Jan. 2, 2024), <https://netchoice.org/how-lawsuits-could-destroy-ai-innovation-in-2024/>; *Comments of Chamber of Progress in the Matter of Artificial Intelligence and Copyright*, U.S. Copyright Office Dkt. No. 2023-6 (Nov. 1, 2023), https://downloads.regulations.gov/COLC-2023-0006-8583/attachment_1.pdf; James X. Dempsey, *Generative AI: The Security and Privacy Risks of Large Language Models* (April 2023), <https://netchoice.org/generative-ai-the-security-and-privacy-risks-of-large-language-models/>.

Amici therefore respectfully request leave to submit the attached brief in support of Defendant’s opposition to Plaintiffs’ motion for a preliminary injunction.

ARGUMENT

Participation as an *amicus curiae* in a case is within “the sound discretion of the courts,” as long as the proffered information of *amicus* is “timely, useful, or otherwise

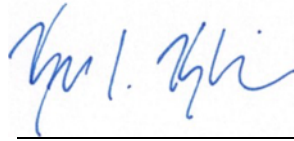
necessary to the administration of justice.” *United States v. Michigan*, 940 F.2d 143, 165 (6th Cir. 1991). The perspectives of *amici curiae* can help district courts navigate novel and complex issues, “especially in matters where there is public interest.” *Id.* Indeed, “the traditional function of an amicus curiae is to assist in cases of general public interest by supplementing the efforts of private counsel and by drawing the court’s attention to law that might otherwise escape consideration.” *Shoemaker v. City of Howell*, 795 F.3d 553, 562 (6th Cir. 2015) (quoting 3–28 Moore’s Manual—Federal Practice and Procedure § 28.84 (2014)).

Amici’s proposed brief will assist this Court in understanding the substantial public interest in generative artificial intelligence, as well as the potential far-reaching impact of a decision on the merits. As explained in the brief: (1) generative artificial intelligence (“AI”) tools are already providing substantial public benefit and hold immense promise to further benefit the public; (2) the preliminary relief requested by Plaintiffs poses a substantial threat to the public interest in development and availability of generative AI technology; and (3) the novel and complex factual and legal issues raised in Plaintiffs’ motion are ill-suited for preliminary determination on a limited record, especially in light of the numerous other cases raising similar issues that are proceeding through fact and expert discovery that will elucidate the issues in this developing area. The proposed submission is particularly appropriate and helpful because it does not speak to the merits of the dispute, but rather its stakes and the implications of its procedural posture. Additionally, this motion is timely and will not delay the proceedings. With the Court’s permission, it will be filed promptly after Defendant’s opposition brief, leaving Plaintiffs with ample opportunity to address it in their reply.

CONCLUSION

For these reasons, *amici curiae* respectfully request that the Court grant leave to file their *amicus* brief (attached as Exhibit A to *amici*’s Motion).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that I filed the foregoing Memorandum in Support of Motion for Leave to File Amicus Brief on the Court's CM/ECF system on this 19th day of January, 2024, which forwarded a copy to:

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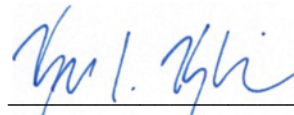
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